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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/540,109

06/20/2005

Arne Carlsson

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EXAMINER

YEAGLEY, DANIEL S

ART UNIT

PAPER NUMBER

3611

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DELIVERY MODE

03/20/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/540,109	Applicant(s) CARLSSON, ARNE	
	Examiner Daniel Yeagley	Art Unit 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/20/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:
 - a. In the abstract, the reference characters 2, 3 and 4 have been used to designate multiple elements, for example “attenuating part (4)” and “attenuating device (4)” and also “vehicle (2)” and “front part (2)” and “front part (3)”.
 - b. Page 4, line 24, the term “boom (103)”, should be changed to --boom (104)--.Appropriate corrections are required.

Claim Objections

2. Claim 8 is objected to because of the following informalities:

Regarding claim 8, line 3 the term “*the* rear part” lacks proper antecedent basis and should be changed to --a rear part--.

Regarding claim 12, line 4 the term “vehicles” should be changed to its singular --vehicle--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claims 1 – 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. Regarding claim 1, line 3, the word “preferably” is considered indefinite.
- b. Regarding claim 1, line 4-5, the term “*the* attenuator (1)” lacks sufficient antecedent basis because it is unclear if applicant is referring to the “attenuating device (1)” cited earlier or is attempting to claim a different element of “an attenuator (4)”.
- c. Regarding claim 3, line 4, the term “*operating* position” lacks sufficient antecedent basis because it is unclear if applicant is referring to the “operation position” cited in claim 1 or is attempting to claim a different operable position.
- d. Regarding claim 10, line 2, the term “*the operating* wheel” lacks sufficient antecedent basis because it is unclear if applicant is referring to the “operation wheel” cited in claim 9 or is attempting to claim a different operable wheel.
- e. Regarding claim 12, line 3, the term “*the* impact attenuator (1)” lacks sufficient antecedent basis because it is unclear if applicant is referring to the “attenuating device” cited in claim 1 or is attempting to claim a different element of “an impact attenuator”.
- f. Regarding claim 12, line 4, the term “impact attenuators” lacks sufficient antecedent basis because it is unclear if applicant is referring to the “impact attenuating device” or is attempting to claim plural impact attenuators.
- g. Regarding claim 14, line 4-5, the term “the device” lacks sufficient antecedent basis because it is unclear which device applicant is referencing; the impact attenuating device or the extension device.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1 – 8 and 12 – 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlsson WO01/87671 (IDS), in view of Morlok et al 4,284,291.

Carlsson shows an impact attenuating device comprising a front part (articulated section between element 3 and element 9) comprising two wheels 43 with a pivot function for connection to a vehicles frame side member 9, and a docking device (19, 20) to secure the rigidity of the device and an attenuating part 3 in an operation position and includes a transport position to articulately arrange the vehicle (page 7) and a rear part comprising a wheel 4 (as shown in figure 23), such that a collision force against the attenuating part would be transferred to a vehicle, the impact attenuating device is characterized by that an extension device (elements 8 and 22) that comprises a hydraulic telescopic device is connected by a horizontal joint and arranged between the attenuating part and the vehicle to provide a first position which arranges the attenuating part in the transport position, where the attenuating part is extended away from the vehicle (figure 17) and shows a second position that arranges the attenuating part in an operation position where the attenuating part is arranged against the vehicle via the front part, but failed to show the extension device arranged between the front part and the attenuating part, where the first transport position arranges the attenuating part away from the front part. Carlsson discloses the claimed invention except for the location of the extension device.

Morlok is cited only as an example of an extension device 20 connected by a vertical and horizontal joints which includes a boom 20 arranged to a link arm (figure 4), such that a cylinder 24 acting on the link arm moves an attenuating part 8 out to a transport position and/or pulls the attenuating part into an operating position, wherein the extension device is connected to move the attenuating part as a trailer, wherein the articulated device shows the prior art of arranging an extension device between an attenuating part of the device and a front part (the articulated section of element 1 of the device; much like the articulated section of Carlsson device), where the operation of the extension device extends the attenuating part to a first position (figure 3) that arranges the attenuating part in a transport position that is extended away from the front part of the device; as claimed and allows an articulation between the front part and the attenuating part when in a transport position, much like that of Carlsson transport position and includes a second position that arranges the attenuating part in an operation position where the attenuating part is arranged against the front part.

It would have been obvious to one having ordinary skill in the art at the time the invention was made have added an extension device or relocated the extension device of Carlsson to an alternative position on Carlsson device, such as between the front part and an attenuating part; such as suggested by the positional arrangement of Morlok extension device, which would work equally as well in order to provide a transport position where the attenuating part is extended away from the front part of the device and would further allow for an articulation between the attenuating part and the vehicle via an articulation between the front part and the attenuating part when in a transport position; as taught by Morlok extension arrangement, in order to provide the device of Carlsson with additional pivots for enhanced

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movement between the front part and the attenuating part; if desired and since it is held that the mere rearranging of parts of an invention would involve only routine skill in the art. In re Japikse, 86 USPQ 70.

Allowable Subject Matter

7. Claims 9 – 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Pedersen '071 shows a device characterized by an extension device.

Peterson '945 shows a device with a front part similar to applicants' front part.

Gertz '755 shows an impact attenuating device.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Yeagley whose telephone number is (571)272-6655. The examiner can normally be reached on Mon. - Thur..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D. Morris can be reached on (571) - 272 - 6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. Joseph Morano/
Supervisory Patent Examiner, Art Unit 3617

D.Y.